

COMPLAINT 2006 – No. 2
In Re Deccio

REASONABLE CAUSE DETERMINATION
STIPULATION AND ORDER

August, 2006

I. Nature of the Complaint

The complaint alleges that in 2005 Senator Alex Deccio, as co-chair of a campaign to elect Norman M. Johnson to the Yakima City Council, used or authorized the use of the facilities of the Washington State Senate to access, reproduce and transmit campaign documents on file with the Washington State Public Disclosure Commission (PDC) in support of Mr. Johnson’s campaign. It is further alleged that these actions by Senator Deccio on behalf of Mr. Johnson violated the Ethics in Public Service Act (Act). RCW 42.52.180 provides in pertinent part:

(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space publications of the agency, and clientele lists of persons served by the agency. . . .

II. Background

The complaint was filed with the Legislative Ethics Board (Board) in March, 2006 and on March 16 at a regularly meeting the Board concluded it had both personal and subject-matter jurisdiction. An investigation was ordered and the Board discussed the results of the ongoing investigation during executive sessions of regularly scheduled meetings on April 20, May 18, and July 20. The Board did not meet in June. On July 11, 2006, Senator Deccio submitted written statements to the Board. Those statements, in conjunction with the Board’s independent investigation, lead to the following findings of fact and conclusions of law.

III. Facts

In 2005 Senator Deccio was co-chair for the Committee to Elect Norman M. Johnson to the Yakima City Council. Mr. Johnson was elected to that non-partisan position in November.

1. Senator Deccio requested that his Legislative Assistant obtain a Candidate Registration form, called a C1, from the PDC and send the document via FAX to the Senator in Yakima. The document was obtained from the PDC website by the Legislative Assistant using her senate computer and printer and then sent by FAX to Senator Deccio. The receiving, Yakima FAX machine is not the property of the State.
2. In his capacity as co-chair Senator Deccio filled out the C1 on behalf of candidate Johnson. Mr. Johnson signed the document which was then sent, without using public resources, to the PDC.
3. As a result of Senator Deccio's use of the C1 sent by his assistant, a person accessing PDC files will find that Mr. Johnson's C1 contains a "header" as follows:

AUG-0102005 MON 03:20PM WASHINGTON STATE SENATE FAX NO. 360 786 1323

The Office of the Secretary of the Senate confirms that FAX NO. 360 786 1323 is the number for the senate's FAX machine located on the fourth floor of the Legislative Building, room 410.

4. Mr. Johnson's opponent for the council seat was Mr. Marshall. Senator Deccio was informed by a constituent that it was difficult, when checking on Mr. Marshall's PDC filings, to identify contributors to the Marshall campaign because it was alleged that in many instances initials were used instead of full names.
5. In response, Senator Deccio requested his Legislative Assistant obtain Mr. Marshall's records of campaign contributors from the PDC. These records, commonly referred to as C3's, were obtained by the assistant using her senate computer and printer and were sent by senate FAX, NO. 360 786 1323, to Senator Deccio in Yakima and were received there on the private FAX machine.
6. Senator Deccio also requested his assistant obtain Mr. Johnson's C3's at the PDC. These records were obtained by the assistant using her senate computer and printer and were sent by senate FAX, NO. 360 786 1323, to Senator Deccio in Yakima and were received there on the private FAX machine.
7. The C1, Candidate Registration Form, was sent by senate FAX to Senator Deccio on August 1, 2005. The C3's for the Johnson and Marshall campaigns were sent by senate FAX to Senator Deccio on October 19 and October 27, 2005.
8. There are no facts to suggest that the Legislative Assistant knew Mr. Johnson or knowingly played a role in the Johnson campaign. She was directed, apparently without explanation, to obtain public documents from a state agency and provide them to the Senator.

IV. Determination of Reasonable Cause

There is reasonable cause to believe that Senator Deccio violated RCW 42.52.180(1) by using or authorizing the use of facilities of the Senate to assist the campaign of Norman F. Johnson for Yakima City Council. Facilities of the Senate included machines, equipment and use of the Senator's Legislative Assistant.

V. Conclusion and Order

Based on a review of the complaint, the Board's investigation and Senator Deccio's written response to the allegations, there is reasonable cause to believe the Senator violated RCW 42.52.180(1) on at least three occasions pertinent to the scope of this complaint – August 1, October 19 and October 27, 2005.

Board Rule 1(H) provides that a complaint may be settled by stipulation. Following its own complete and independent review, the Board accepts the Senator's signed response as part of that stipulation.

Now, Therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Senator Deccio shall pay to the Washington State Legislative Ethics Board the sum of \$150.00 for investigative costs, and the additional sum of \$150.00 payable to the Washington State Treasurer as a civil penalty pursuant to RCW 42.52.480 and Board Rule 5.

Pursuant to Board Rule 5(D) these assessments are the personal responsibility of Respondent, Senator Deccio, and must be paid within 45 days of the date this Order is approved by the Board, unless an extension is granted by the Board.

I, Alex A. Deccio, hereby certify that I have read this Reasonable Cause Determination, Stipulation and Order in its entirety; that I have stipulated to the facts, conclusions of law and penalty; that I have been advised that I have the option of reviewing this agreement with legal counsel, or have actually reviewed it with legal counsel and fully understand its legal significance and consequence. I agree to sign it as a resolution of this matter and have voluntarily signed.

Alex A. Deccio

Date: _____

Having reviewed the Reasonable Cause Determination, Stipulation and Order, and Respondent's written response to the allegations contained in the complaint, and on behalf of the Legislative Ethics Board, the stipulation is accepted.

Wayne Ehlers, Chair

Date: _____